United Nations A/AC.253/21

General Assembly

Distr.: General
24 February 2000

Original: English

Preparatory Committee for the special session of the General Assembly entitled "World Summit for Social Development and beyond: achieving social development for all in a globalizing world"
Second session
3-14 April 2000
Item 2 of the provisional agenda*
Preparations for the special session of the General Assembly entitled "World Summit for Social Development and beyond: achieving social development for all in a globalizing world"

Development of guidelines on the role and social responsibilities of the private sector

Report of the Secretary-General

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* A/AC.253/12.

00-31572 (E) 140300

I. Introduction

1. At its first session (17-29 May and 15 July 1999), the Preparatory Committee for the special session of the General Assembly entitled "World Summit for Social Development and beyond: achieving social development for all in a globalizing world", in its decision 1, requested the Secretary-General to report to the Preparatory Committee at its second substantive session and, as appropriate, to the Commission for Social Development at its thirty-eighth session, on the development of guidelines on the role and social responsibilities of the private sector.[1]

2. The present report has been prepared in response to that decision. It contains a discussion of definitions and concepts related to the social responsibilities of the private sector, an overview of initiatives taken, a brief review of trends, issues and intergovernmental initiatives and some recommendations for the development of guidelines at the United Nations.

II. Definitions and concepts

3. The social responsibility of the private sector goes beyond the sector's day-to-day operation of producing a certain range of products and services in the most efficient and economical manner. The social responsibility of the private sector (also referred to as corporate social responsibility) concerns the relationships of a company not just with its clients, suppliers and employees, but also with other groups, and with the needs, values and goals of the society in which it operates. All these groups can be regarded as stakeholders in the company. Stakeholders can be identified as those individuals or groups of individuals that have an interest, or take an interest, in the behaviour of the company both within and outside its normal mode of operation. They therefore establish what the social responsibility of the company entails or, at least, how they perceive it to be.

4. Generally, stakeholders include management, shareholders, workers, customers and suppliers, as well as individuals that operate outside the direct cycle of daily business. Stakeholders would thus include workers in a company and their relatives dependent on income, as well as groups living in the vicinity of a company that are concerned about the air and water quality resulting from a company's operation. Stakeholders' interests are usually represented in an organized form. Employer's organizations, trade unions, non-governmental organizations, consumer groups, investors and local communities all represent, or aim to represent, certain stakeholders' interests.[2]

5. Although the comprehensiveness of the social responsibilities of a company could be endlessly debated, it appears to be more useful to find a common minimum of social responsibility. That first element could be to comply with the laws of the country in which the company operates and to follow the guidance of the international community on such issues as labour, human rights and environment. A second element could be for a company to donate money, time or staff for benevolent causes. Such actions can sometimes be put forward by companies as proof of a commitment to social responsibility. However, social responsibility goes beyond compliance with the law, beyond philanthropy and, one could add, beyond public relations.

6. Corporate social responsibility therefore requires dialogue between companies and their stakeholders. The common use of the term "corporate citizenship" would therefore apply to companies that are actively involved in dialogue and action on issues of direct social impact to one or more of a company's stakeholders. Good corporate citizens not only engage in discussions with stakeholders groups, but, as do other good citizens, they respect and, to a varying extent, comply with the concerns of those stakeholders. Complying with those concerns can thus be made in a social contract between a company and the society in which it operates. A company code of conduct (discussed below) would render such a contract explicit and measurable.

7. In a globalizing world, corporate social responsibility becomes more complex. As companies have been increasingly taking a lead in international trade and investment, their participation in dialogue with stakeholders has become an important element in a truly global corporate citizenship. The social contract of an individual corporation could therefore very well consist of a number of subcontracts, one for each host society in which it operates. Globalization has expanded the set of stakeholders far beyond the immediate community in which an enterprise has its headquarters. In developing country production facilities of a garment producing company, for

example, workers, their families and their communities all represent new stakeholders' groups.

8. Whereas many large multinational corporations have been making efforts to act as socially responsible citizens of a new global society, it could be argued that there are too few global guidelines to help and support them in their quest for good corporate citizenship. Attempts have been made by various stakeholder groups to define the elements of those rules. Most of them have been confined to the behaviour of companies as global market players, i.e., in trade and investment and, to a certain degree, the environment. Yet, because of their growing importance in everyday life on a global scale, guidelines on the terms of good corporate citizenship in the social context are becoming increasingly necessary.

9. Globalization is thus one part of the rationale for having global guidelines on social responsibilities for the private sector. The current policy orientation in many industrialized countries of a diminished role of the public sector in the economic and social spheres of society could be another. A third part is the increasingly large and unpredictable private capital flows across national boundaries that have substantially reduced the leverage of Governments, particularly of developing countries, in controlling their economic fate.

10. Finally, and this may be the most compelling argument for developing guidelines on global social responsibility, an unprecedented period of strong economic growth in large parts of the industrialized world has resulted in spectacular growth of corporate wealth, benefits and influence in political decision-making. It could be argued that expanding markets are only sustainable if they are complemented with a social response. At the level of the individual enterprise, it could similarly be claimed that with wealth comes certain responsibilities.

11. Most initiatives towards establishing a corporate strategy for social responsibility are laid down in codes of conduct. A code of conduct can generally be defined as a written policy or statement of principles intended to serve as the basis for a commitment to particular enterprise behaviour. As codes of conduct are mostly defined and developed by companies themselves, they generally do not carry any legal or regulatory obligation.

III. Overview of initiatives taken

12. In view of the wide diversity of codes of conduct, the present report will focus on four categories, differentiated by their content, how they are applied, who administers them and their industrial coverage.

13. The first and most obvious way of categorizing codes of conduct is by their content. The three most common areas of content are labour standards, environmental protection and human rights. Some codes, for example those that apply to a certain industry, contain combinations of these areas. Increasingly comprehensive codes also contain stipulations on corporate governance, referring to specific ways and means by which stakeholders' interests in the company can be addressed. Other codes of conduct may cover issues as diverse as the pricing of farm produce for export in developing countries, including the adding of labels and brand names highlighting their fair trade, as well as provisions on arms trade, tobacco use, corruption, bribery and animal welfare.

14. In a study prepared for the Governing Body of the International Labour Organization (ILO),[3] a second general distinction is made between operational codes and model codes. Operational codes apply directly to commitments within enterprises or their direct partners, or through subscription codes drawn up by outside entities, to which enterprises subscribe or commit themselves. These codes may involve monitoring or reporting systems by subscribers or by external parties. In contrast, model codes are issued generally by enterprise associations, trade unions, non-governmental organizations or Governments for others to use as a basis for developing their own codes.

15. The number of operational codes of conduct at the company level is so large that highlighting a small number of them in the present report would not be justified. A recent count by ILO identifies no less than 215 such available codes, of which 80 per cent were developed by multinational enterprises. Examples of model codes include the Sullivan Principles, a set of principles launched in 1977 aimed at guiding multinational corporations based in the United States of America on their operational activities in South Africa during the apartheid regime. The Coalition for Environmentally Responsible Economies developed a set of principles, better known as the CERES principles, which stipulated a number of guidelines in

the area of environmental protection. A final example is the Business Charter for Sustainable Development of the International Chamber of Commerce.

16. The third distinction could be made on the basis of which party initiates, administers and monitors the code of conduct. The largest group of codes contains initiatives that are led by private enterprises or enterprise organizations such as industry or business associations, chambers of commerce and trade organizations. Other codes have been initiated by workers' organizations, often out of concern for conditions of their own employment or those of their counterpart workers within the same company, product chain or industry in other countries. Non-governmental organizations and coalitions of consumer groups have been generally successful in promoting initiatives with a good amount of publicity. Finally, professional consultants, auditors or educational enterprises have also taken a role in developing some types of codes of conduct. Naturally, combinations of the above forms exist, with sometimes implicit arrangements on co-leadership, control and authority to monitor, review and assess the codes.

17. Public sector involvement in the development and implementation of company codes of conduct has re-emerged as an acceptable option for their wider dissemination and support. Misunderstandings between the public and private sectors on the role of Governments (and also of the United Nations) in the development of codes beyond its facilitating role in society and the economy existed in the 1970s and early 1980s. It appears that for this reason the term "code of conduct" continues to have a negative connotation in some circles, being interpreted as a set of rules beyond the law that are slapped onto the private sector without consultation. This is certainly not the nature of the new partnerships between government and the private sector that have taken root in many, mostly industrialized, countries since the early 1990s.

18. Although the largest number of initiatives aimed at enhancing corporate social responsibility have been undertaken by the private sector itself, national Governments' participation in alliances of business representatives, non-governmental organizations and other stakeholder groups can provide a welcome stimulus and a broader range of support to the initiative taken. One such initiative that benefits from extensive government participation and endorsement at the national level is the 1996 Apparel Industry Partnership in the United States (mainly concerned with setting criteria for global sourcing of United States multinational enterprises in the clothing and footware industries). Another is the 1998 Ethical Trading Initiative in the United Kingdom of Great Britain and Northern Ireland, a grouping of non-governmental organizations, consumer organizations and business representatives aimed at providing a forum for discussion, training and dissemination of best practices, now receiving financial and policy support of the Government of the United Kingdom.

19. A final categorization of codes of conduct applies to the production chain of certain goods and services. Industry codes that are applied in an entire production chain are said to be "vertical" in nature. Such codes are in place, for example, in the clothing, footwear and toy industries that are commonly headquartered in developed countries but have their production facilities located in the developing world. If one also considers the interest of consumers as the final target in the production chain, these vertical codes would also include consumer-driven initiatives such as social labelling or trade-related initiatives, or investor-driven initiatives such as socially responsible investments.

20. Horizontal codes would apply to a certain industrial sector, where leading companies would initiate a number of policies on their operations and apply them across the industry. Codes in place in the chemical or pharmaceutical industries fit into this category. Obviously, combinations of both horizontal and vertical codes also exist: in those cases, industry and business associations, together with third parties, such as non-governmental organizations, Governments and consumer groups, come together to agree on a certain set of principles to be applied across the board.

IV. Trends and issues

21. As discussed above, initiatives to support corporate social responsibility in business operations and corporate citizenship in society have been mostly in the form of the development of new codes of conduct. From the diversity of those initiatives, a few trends and issues are highlighted below.

22. No business operation wants to see its reputation or product brand being damaged by the disclosure of any act, accident or negative occurrence of a company's policy to the general public. The need for

large companies to have some type of corporate social responsibility manifesto in place is therefore becoming a prerequisite for any successful corporate communications and public relations strategy. However, more companies are seeing the potential benefits of being associated with social concerns. The occurrence of the concept of "cause-related marketing" in business theory and practice is a case in point: in what is defined as a strategic positioning and marketing discipline that links a company and its products to a social cause, the goal is to create relationships with key stakeholders, enhance brand value, increase sales and differentiate similar products in a competitive marketplace while providing benefit to a cause or issue. This could on some occasions lead to the confused perception among consumers that a company engaged in cause-related marketing is a socially responsible company.

23. Corporate codes of conduct have increasingly become a matter of concern outside the headquarters level of individual companies. Businesses have included not only branches and franchises, but also suppliers, in the coverage and implementation of their codes. As many companies have started to operate beyond the national level, the applicability of the laws of the various countries of operation with respect to the company code has become more complicated. For example, the requirement of a minimum living wage, a not uncommon element of company codes of conduct, can be applied and interpreted in many different ways. At the other end of the production chain, some consumer groups in developed countries have, through their effectiveness in raising public attention to their concerns, become an important force in the orientation, coverage and assessment of company codes. In general, coverage of company codes of conduct has become more integrated at both the supply and demand end of the production chain.

24. Codes of conduct that are not internally or externally monitored achieve little impact. There continues to be great potential for standard-setting to facilitate internal and external monitoring of the implementation of corporate codes. The Industrial Standards Organization (ISO), an international organization with membership of both the private and the public sectors, has been the key forum for discussion of various quality social audit standards. The Council on Economic Priorities Accreditation Agency (CEPAA), founded by private and public concerns in 1997, has, with considerable success, developed and applied a new social accounting standard, known as Social Accountability (SA8000). This standard, based on ISO quality management standards, contains references to international legal instruments on labour and human rights and provides an operational tool for social audit and control, primarily within the company. The standard has the potential to provide companies with a proof of good corporate citizenship. Nevertheless, social audit standards should not be used to forestall or prevent independent verification of a company's conduct by stakeholders, or prevent the continuous improvement of its social practice.

25. In view of the diversity of codes, there are wide variations in their quality and comprehensiveness. Estimates by the International Organization of Employers indicate that 80 per cent of all codes of conduct fall into the category of general business ethics with no implementation methods. A study by ILO further indicates that of some 215 codes mentioned earlier, no more than one third of the codes reviewed refer to international labour standards, either generally or specifically. Instead, in some codes, companies draft their own definitions of labour practice targets. It thus appears that there is a valid argument for some vigilance in assessing the quality of codes.[3]

26. There has been intense debate on whether or not to link trade agreements with labour standards or environmental concerns, which, as discussed above, are also core issues of social responsibility at the corporate level. The extent of this debate was most publicly displayed at the 1999 meeting of the World Trade Organization in Seattle.

V. Intergovernmental initiatives

27. In order to facilitate discussion on the development of appropriate guidelines to support corporate social responsibility, the present section provides a brief description of agreements reached at three international organizations, namely ILO, the Organisation for Economic Cooperation and Development (OECD) and the United Nations.

28. ILO has been the principal international meeting ground of employer, worker and government representatives deliberating on labour issues and adopting standards. ILO has adopted 182 international

labour conventions and 190 recommendations since its establishment in 1919. Furthermore, the 1977 Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy was the first comprehensive international set of guidelines on agreed principles of social policies or standards of enterprises affecting conditions of work, occupational safety and health. The Declaration, which applies to Governments, enterprises, employers and workers, lists various ILO conventions and recommendations hitherto adopted and also provides for a regular review and interpretation process.

29. In order to further support the implementation of core labour standards in a rapidly globalizing world, key principles that emerged from a group of core ILO conventions were reaffirmed by ILO in 1998 with the adoption of the Declaration on Fundamental Principles and Rights at Work. It calls upon all its members to respect, promote and realize four core work principles now referred to as basic workers' rights, namely freedom of association and the right to collective bargaining; the elimination of compulsory labour; the elimination of child labour; and the elimination of discrimination in respect of employment and occupation. The Declaration thus provides a reference for government's guidelines on enhancing corporate social responsibility, insofar as this responsibility covers labour standards.

30. A unique feature of the Declaration is that States members of ILO, even if they have not ratified the conventions in question, have an obligation to respect in good faith and in accordance with the Constitution of ILO, the principles concerning the fundamental rights that are the subject of those conventions. It is also relevant to point out that the Declaration contributes to the aim set in paragraph 54 (b) of the Copenhagen Programme of Action,[4] which is to safeguard and promote respect for basic workers' rights, to request States parties to the corresponding ILO conventions to fully implement them and to request other States to take into account the principles embodied in them. Since its adoption, the Declaration has been used as a reference point in new industry codes of conduct, and has also been used as an important element for the substantive agenda of the Global Compact initiative of the Secretary-General, discussed in paragraphs 39-43 below.

31. In 1976, OECD member countries adopted a Declaration on International Investment and Multinational Enterprises and shortly thereafter, in 1977, ILO adopted the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy. Progress achieved at ILO and OECD resulted in the first adoption of the OECD Guidelines for Multinational Enterprises, later in 1977. The aim of the OECD Guidelines is threefold: (a) to ensure that the operations of enterprises are in harmony with government policies; (b) to strengthen the basis of mutual confidence between enterprises and society; and (c) to help improve the foreign investment climate. The Guidelines are recommendations addressed by Governments to multinational enterprises, providing principles for responsible business conduct consistent with the applicable laws of its member countries; observance of the Guidelines is voluntary and not legally enforceable. However, Governments adhering to the Guidelines encourage enterprises operating in their territories to observe the Guidelines, wherever they operate, i.e., also outside the countries of the signatories.

32. Since their initial adoption in 1977, the OECD Guidelines have been revised regularly. Currently, a review of a 1991 text is taking place in consultation with business and workers' interests being represented in OECD by the Business and Industry Advisory Committee and the Trade Union Advisory Committee respectively, as well as with increased inputs from the non-governmental organization community and general public.[5] The revised text is to be submitted for approval to the OECD member Governments at the annual meeting of the Council at the ministerial level in June 2000. Signatories to the current revision include all OECD member countries, as well as Argentina, Brazil and Chile.

33. Coverage of the guidelines currently being revised includes general policies of companies, information disclosure, employment and industrial relations, environment, science and technology, competition and taxation. The current revision also includes, for the first time, chapters on combating bribery and consumer protection.

34. General policies listed in the current draft guidelines provide that companies should respect human rights; encourage local capacity-building and human capital formation; refrain from seeking regulatory exemptions from the Government; support good corporate governance; abstain from local political activities; and encourage business partners, in

particular suppliers and subcontractors, to apply the same principles of conduct as adhering companies do. In employment, the draft guidelines echo the four main principles of the 1998 ILO Declaration of Fundamental Principles and Rights at Work (see para. 29 above). In addition, they encourage companies to provide facilities, information and consultation to employee representatives. They also request companies to observe standards of employment not less favourable than those observed by comparable employers in the host country. Finally, in the new area of consumer protection, the draft guidelines stipulate a number of procedures that should encourage enterprises to act in accordance with fair business, marketing and advertising practices and to take steps to ensure safety and quality of the goods and services that they provide.

35. Another important OECD instrument in the area of corporate social responsibility is the OECD Principles of Corporate Governance adopted April 1999. Although the Principles deal primarily with economic concerns, such as the rights and equitable treatment of shareholders, disclosure, transparency and company board responsibilities, they also contain a chapter referring to the role of stakeholders in corporate governance. The key principle in that chapter states that the corporate governance framework should recognize the rights of stakeholders as established by law and encourage active cooperation between corporations and stakeholders in creating wealth, jobs and the sustainability of financially sound enterprises.

36. Another initiative of relevance undertaken by OECD is the adoption by OECD member States in December 1999 of the Guidelines for Consumer Protection in the Context of Electronic Commerce. It aims to assist Governments to formulate consumer policies for electronic commerce and outlines information disclosure requirements to protect consumers.

37. Given the valuable work being carried out at ILO and OECD, the question may be raised as to what specific added value there would be for the United Nations system to become more actively involved in the discussion and eventual definition of guidelines for corporate social responsibility. One answer to that question resides in the fact that the United Nations is a truly multidisciplinary and universal intergovernmental organization that encompasses the interests of all countries, whereas the OECD constituents are limited to industrialized countries, and the ILO constituents are primarily concerned with labour and employment issues. Furthermore, a private sector that increasingly is operating in one global marketplace calls for an equally global and comprehensive forum to discuss the interaction of business in society.

38. The United Nations has for many years been involved in facilitating an active and constructive involvement of the private sector. This has been achieved in its work in developing a supporting international "soft infrastructure" for the orderly conduct of business through, for example, the issuance of guidelines on consumer protection in 1985, recently extended to include sustainable consumption. In addition, the United Nations has also facilitated the participation of the private sector in the pursuance of the goals of the global conferences of the 1990s. The most recent summary of this work can be found in a report of the Secretary-General on business and development to the General Assembly at its fifty-fourth session.[6]

39. In line with that facilitating role, the Secretary-General launched, in January 1999, the Global Compact initiative, a major benchmark aimed at increasing the business sector's participation in social development. It has since been endorsed by various constituencies in the business sector. The initiative consists of nine principles based on globally acknowledged and widely recognized declarations and major United Nations conferences. These include the 1948 Universal Declaration of Human Rights, the 1998 ILO Declaration on Fundamental Principles and Rights at Work, the Copenhagen Declaration and the Programme of Action adopted at the 1995 World Summit for Social Development, and the Rio Declaration adopted at the 1992 United Nations Conference on Environment and Development.

40. In the area of human rights, the Global Compact asks the private sector to support and respect the protection of internationally proclaimed human rights within its sphere of influence; and to ascertain that it is not implicitly allowing human rights abuses. In the area of labour, the Compact requests businesses to uphold the right to freedom of association and the effective recognition of the right to collective bargaining; to contribute to the elimination of all forms of forced and compulsory labour; to assist in the effective abolition of child labour; and to help eliminate discrimination in respect of employment and occupation. On environmental issues, the Compact

requests businesses to support a precautionary approach to environmental challenges; to undertake initiatives to promote greater environmental responsibility; and to encourage the development and diffusion of environmentally friendly technologies. Recognizing that setting and enforcing standards is the prerogative of Governments, the Secretary-General asked the business community to embrace and enact the principles within its own sphere of influence.

41. The review and appraisal of the Copenhagen Declaration and the Programme of Action at the forthcoming special session of the General Assembly will provide the first major intergovernmental forum for States Members of the United Nations to comment and build on this proposal. It could deliberate on the question of how the guidelines could help put into practice the principles of the Global Compact.

42. The Global Compact represents a call upon the business sector to adopt the principles that the majority of the world's Governments have already embraced through the various legal instruments mentioned above. It thus provides a clear and specific set of issues that could be used as a blueprint for any guidelines to be further developed at the intergovernmental level at the United Nations: it highlights global principles that enjoy a solid base of support by the Member States; moreover, the principles are specific and have a strong legal foundation.

43. The principles listed in the Global Compact could thus be presented as the first substantive part of a set of government policy guidelines for enhancing new opportunities for corporate participation in the development process. A second part of those guidelines could include proposals for Governments to support that participation by the business sector. That part of the guidelines could contain action elements, a few of which are presented below. The guidelines could call upon Governments, *inter alia*, to provide a domestic economic and social policy framework that would be just and stable and would support and stimulate private initiative; to ratify, if States parties had not yet done so, the legal instruments contained in the Global Compact and the Copenhagen Declaration; and finally, to enhance and embrace partnership with business, trade unions and other non-governmental organizations that were concerned with the improvement of the living standards of all people in global society.

VI. Conclusions and recommendations

44. The development of guidelines that aim to promote the concept of social responsibility of the private sector is a complex task. It involves a large number of cross-cutting issues as well as consultations with many different constituencies and stakeholders. The preparation of such guidelines to enhance global corporate citizenship in the States Members of the United Nations requires a process of intergovernmental consultation. The Commission for Social Development is a key forum for that process. The General Assembly, at its special session, may therefore wish to propose that the development of guidelines for social responsibility of the private sector be the priority theme of the agenda for the fortieth session of the Commission for Social Development in 2002. Due recognition should be given to the discussions that are being held in other international forums, such as those at ILO and OECD, as well as international bodies representing the private sector itself, trade union centres and other groups in civil society.

45. The objectives of those guidelines could be twofold: first, to promote social responsibility of the private sector; and second, to stimulate activities by the private sector that directly support both the goals of the World Summit for Social Development and the Secretary-General's Global Compact. The guidelines would primarily serve to provide a policy framework for action by Governments. These guidelines would therefore draw on experience learned from Governments in enhancing partnerships with the private sector for development.

46. No guidelines can be implemented without the participation of the private sector. Appropriate modalities will therefore need to be sought to enhance the active engagement of the private sector in the development of guidelines on global corporate citizenship. Measures that may be taken by the private sector itself should also be included in the guidelines. Many of those corporate initiatives have been beneficial to the social development process in many countries.

47. In recent years, corporate wealth has started to make significant contributions to eradicating disease and helping provide better access to education. However, global corporate citizenship goes beyond philanthropy. Therefore, policy areas that could be covered in the guidelines include the three primary

areas considered by the World Summit for Social Development that benefit from private sector participation: poverty alleviation, employment generation and the promotion of social integration, as well as the three core concerns of the Global Compact, namely, the promotion of human rights, labour standards and environmental protection.

Notes

[1] *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 45* (A/54/45), para. 72, decision 1, annex, para. 1 (b).

[2] See "World Investment Report 1999: Foreign Direct Investment and the Challenge of Development", chap. XII, prepared by the United Nations Conference on Trade and Development (unpublished).

[3] See ILO documents GB.273/WP/SDL/1 (Rev.1) and GB.274/WP.SDL/1.

[4] See *Report of the World Summit for Social Development, Copenhagen, 6-12 March 1995* (United Nations publication, Sales No. E.96.IV.8).

[5] In January 2000, a draft revision of the Guidelines was posted on the OECD web site (www.oecd.org) for public comment.

[6] A/54/451.